

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSEPH JOHNSON,

Petitioner,

v.

TERRY PITCHER,

CASE NO. 95-CV-76196

HONORABLE JOHN CORBETT O'MEARA
UNITED STATES DISTRICT JUDGE

Respondent,
_____ /

OPINION AND ORDER DENYING THE
MOTION FOR RELIEF FROM JUDGMENT

Petitioner filed a motion to amend the petition for writ of habeas corpus, seeking to add a claim to his 1995 habeas petition, which challenged his 1985 conviction for second-degree murder. On May 18, 2016, the Court ordered that the motion be transferred to the Court of Appeals pursuant to 28 U.S.C. § 2244(b)(3)(A), because the motion was a successive petition for a writ of habeas corpus that required a certificate of authorization from the Court of Appeals before petitioner could proceed. The Court subsequently denied petitioner's motion to alter or to amend judgment. Petitioner's case remains pending in the Sixth Circuit and no decision has been reached by that court whether to grant petitioner permission to file a successive habeas petition. *See In Re Johnson*, 16-1679 (6th Cir.).

Petitioner has filed a motion for relief from judgment regarding the Court's order transferring the case to the Sixth Circuit pursuant to § 2244(b)(3)(A). For the reasons that

follow, the motion is DENIED.

A district court loses jurisdiction over a state prisoner's habeas petition when it transfers it to Court of Appeals on the ground that it is a second or successive petition. *Jackson v. Sloan*, 800 F. 3d 260, 261 (6th Cir. 2015). This Court thus lacks jurisdiction pursuant to 28 U.S.C.A. §§ 1631 and 2244(b)(3)(A) to consider petitioner's motion for relief from judgment. *Id.*, at 261-62.

IT IS HEREBY ORDERED that motion for relief from judgment (Dkt. # 70) is DENIED.

s/John Corbett O'Meara
United States District Judge

Date: August 19, 2016

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, August 19, 2016, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager